

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

TODD AUGENBAUM,

Plaintiff,

- against -

ANSON INVESTMENTS MASTER FUND LP, et
al.,

Defendant.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 7/21/2023

22 Civ. 249 (VM)

ORDER

VICTOR MARRERO, United States District Judge.


On May 15, 2023, and consistent with the Court's Individual Practices, counsel for defendants Anson Investments Master Fund LP, Brio Capital Master Fund Ltd., Brio Select Opportunities Fund, LP, CVI Investments, Inc., Empery Asset Master, Ltd., Empery Debt Opportunity Fund, LP, Empery Tax Efficient, LP, Iroquois Master Fund, Ltd., Iroquois Capital Investment Group, LLC, L1 Capital Global Opportunities Master Fund, M3A LP, and Richard Molinsky (collectively, the "Moving Defendants") sent counsel for plaintiff Todd Augenbaum ("Plaintiff") a pre-motion letter identifying alleged deficiencies in the Amended Complaint that Plaintiff filed in this action, and that allegedly would provide a basis for a motion to dismiss. (See Dkt. No. 108.) On June 6, 2023, also consistent with the Court's Individual Practices, counsel for Plaintiff filed a letter in response,

opposing the grounds that Defendant stated in favor of the proposed motion.¹ (See Dkt. No. 112.) On June 15, 2023, the Court received a letter from the Moving Defendants requesting a pre-motion conference and asserting that the letter exchange did not resolve the dispute and thus failed to avoid motion practice at this stage of the proceedings. (See Dkt. No. 113.)

Upon review of all pre-motion letters, the Court is not persuaded that a pre-motion conference is necessary to resolve the parties' dispute. Within one week of the date of this Order, the parties shall notify the Court whether they consent to the Court deeming the pre-motion letters as a fully briefed motion and ruling on the basis of the letters, or whether the parties request supplemental or full briefing on the Moving Defendants' proposed motion. If the parties request supplemental or full briefing, they shall submit a proposed briefing schedule within one week of the date of this Order.

SO ORDERED.

Dated: 21 July 2023
New York, New York


Victor Marrero
U.S.D.J.

¹ Plaintiff first filed his pre-motion letter in response to the Moving Defendants' letter on May 31, 2023 (see Dkt. No. 111), but subsequently filed a corrected response on June 6, 2023 (see Dkt. No. 112).